

EXHIBIT 3

Excerpts of Deposition of Kyle Kingsbury Feb. 17, 2017

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Cung Le, Nathan Quarry, Jon)
Fitch, Brandon Vera, Luis Javier)
Vazquez, and Kyle Kingsbury on)
behalf of themselves and all)
others similarly situated,)
)
Plaintiffs,)
)
vs.) Case No. 2:15-cv-
) 01045-RFB-(PAL)
Zuffa, LLC, d/b/a Ultimate)
Fighting Championship and UFC,)
)
Defendants.)
)

DEPOSITION OF KYLE KINGSBURY

Taken at the Offices of Boies, Schiller & Flexner
300 South 4th Street, Suite 800
Las Vegas, Nevada

On Friday, February 17, 2017
At 9:19 a.m.

Reported by: Jane V. Efaw, CCR #601, RPR

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1 mind, and they wanted to review the contracts with
2 management and lawyers.

3 And at that time, Dana White fired all
4 members of the American Kickboxing Academy, and he
5 went on to post a video with several F bombs and foul
6 language. I think he even said, "Who the fuck is
7 Cain Velasquez anyways," a guy, my personal training
8 partner and teammate who would go on to become
9 heavyweight champ.

10 And I think Jon Fitch had to call Lorenzo to
11 get his job back and really walk on eggshells in his
12 conversation with Lorenzo because he realized that
13 every fighter on that team would be hurt if they
14 didn't get in line and do what they said and sign the
15 contract as stated.

16 So from that point on, I understood that you
17 either do as you're told or you walk. You really
18 have no other choice.

19 Q. So I think you said that Dana White fired
20 all members of the American Kickboxing Academy. Were
21 you fired at that time?

22 A. I had already signed my contract for the
23 Ultimate Fighter Season 8. And in that contract,
24 there was the new likeness agreement. And so from my
25 understanding talking to my management, I was in the

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1 clear, but I was not sure had my teammates continued
2 to press the issue and not fold to Dana White's
3 pressure, that he might have fired me as well or at
4 least punished me in different ways.

5 But the lesson was learned at that point
6 that you don't talk back. You don't raise questions.
7 And you don't try to change any wording that they
8 give to you to sign in the contract.

9 Q. So you were not fired at that time; is that
10 correct?

11 A. Not to my knowledge.

12 Q. Was Josh Koscheck fired at that time?

13 MR. DELL'ANGELO: Object to the form.

14 THE WITNESS: From what I understand, the
15 fighters who fought in the UFC for American
16 Kickboxing Academy were all let go, but it's possible
17 that they had -- I don't know. It was just my
18 understanding that the guys that were fighting in the
19 UFC at that time at American Kickboxing Academy were
20 all let go.

21 Q. But you don't know if Josh Koscheck was
22 fired at that time?

23 MR. DELL'ANGELO: Object to the form.

24 THE WITNESS: I don't recall at this time.

25 ///

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1 BY MR. WIDNELL:

2 Q. Was Cain Velasquez fired at that time?

3 A. It would make sense that Cain was fired at
4 that time with Dana specifically calling him out.

5 Q. But do you know if he actually was fired at
6 that time?

7 A. I don't recall.

8 Q. But you had said that all of the members of
9 the American Kickboxing Academy were fired at that
10 time?

11 MR. DELL'ANGELO: Object to the form.

12 THE WITNESS: My answer was based on the
13 fact that Dana had called out the members of American
14 Kickboxing Academy saying that they would never fight
15 in the UFC again and that they're pretty much all
16 scumbags and don't deserve to fight.

17 BY MR. WIDNELL:

18 Q. Is there anyone you actually do know that
19 was definitely fired at that time?

20 MR. DELL'ANGELO: Object to the form.

21 BY MR. WIDNELL:

22 Q. From American Kickboxing Academy.

23 A. I know for a fact Jon Fitch was let go, and
24 that's why he had to call Lorenzo to get his job
25 back.

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1 Q. Do you know of anyone else who was fired at
2 that time?

3 A. Not at this time, but it was understood that
4 all of our jobs were in jeopardy.

5 Q. And that's because Dana White went online
6 and said that you were all -- I think you used the
7 term "scumbags"?

8 A. Yeah, and that's probably putting it
9 lightly. But he specifically stated the members of
10 the American Kickboxing Academy, and we fall under
11 that umbrella.

12 Q. Is it fair to say that over the years
13 management at UFC made numerous comments that you
14 found offensive?

15 MR. DELL'ANGELO: Object to the form.

16 THE WITNESS: I didn't just find their
17 comments offensive. A lot of times their comments
18 carried weight in taking away of our notoriety and
19 who we were. They weren't just belittling personal
20 attacks. They would cause us to lose value. They
21 would make us look like we weren't great fighters or
22 that we should be lucky to fight in the UFC and lucky
23 to fight for Dana.

24 BY MR. WIDNELL:

25 Q. And how did they do that?

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1 gone against, level of competition.

2 BY MR. WIDNELL:

3 Q. But there's no objective quantifiable metric
4 for looking at those criteria and determining whether
5 or not the fighter is an elite MMA professional
6 fighter, is there?

7 MR. DELL'ANGELO: Same objection.

8 THE WITNESS: Well, it is quantifiable when
9 you look at someone's record and you see that they
10 have a certain number of wins. And then if you look
11 at the level of their opponent, you would say, Well,
12 that's not quantifiable. That's just a ranking
13 system, which is someone's opinion.

14 But if you look at that guy's record and you
15 see who he's beat and why he's ranked as high as he
16 is, then that is a good opponent.

17 Gegard Mousasi was a good opponent for King
18 Mo Lawal. When he beat him, he beat an elite level
19 guy. And he became an elite level guy. He was
20 Strikeforce light heavyweight champion right before
21 they were acquired. He went on to beat more top-tier
22 guys. His opponent Gegard, who he had beat, went on
23 to beat guys in the UFC and is a top-ranked UFC
24 middleweight. So you can quantify by looking into
25 things deeper.

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1 BY MR. WIDNELL:

2 Q. But the way that you would quantify that
3 would be your opinion, would it not?

4 A. It would be my opinion whether I quantified
5 it that way or not. The criteria that I use is my
6 opinion.

7 But I do feel that there are some
8 similarities in sharing that opinion among other
9 fighters. There are some similarities in sharing my
10 opinion among people in the industry.

11 And I think the criteria that I use to look
12 at to determine if someone is an elite level fighter
13 is shared by many.

14 Q. Do you think it's shared by all of the named
15 plaintiffs in this case?

16 A. I'm not sure if you're referring to
17 notoriety and skill sets and fighting in the UFC. I
18 would think many would share that.

19 Q. So you think all of the named plaintiffs
20 would agree that everyone in the UFC is an elite
21 fighter?

22 A. I believe so, but I'm not entirely sure if
23 that's the case. I believe so.

24 Q. If that were not the case, would that
25 suggest that maybe your opinion isn't as widely held

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1 as you think?

2 MR. DELL'ANGELO: Objection. Calls for
3 speculation.

4 THE WITNESS: I would be speculating on
5 that. If there was one person among the named
6 plaintiffs who disagreed with that, I don't think
7 that would disqualify my opinion on the matter. If
8 there were two, I don't know. I mean we can -- I
9 don't know.

10 MR. WIDNELL: I'm going to take a quick
11 break. Meet back in 15 minutes.

12 THE VIDEOGRAPHER: We are now going off the
13 record. The time is approximately 3:35 p.m.

14 (A brief recess was taken.)

15 THE VIDEOGRAPHER: We are now back on the
16 record. The time is approximately 3:58 p.m.

17 BY MR. WIDNELL:

18 Q. We spoke earlier today about instances where
19 you believe either you or other fighters were
20 threatened by the UFC; is that correct?

21 A. That is correct.

22 Q. And were punished by the UFC; is that
23 correct?

24 A. That is correct.

25 Q. Can you just tell me any example that you

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1 can think of where a UFC fighter was either
2 threatened or punished for not signing a contract?

3 A. I believe that I had stated this earlier.

4 But at American Kickboxing Academy, like when I got
5 into the UFC, my teammate Jon Fitch was looking over
6 the likeness agreement and had some trouble with the
7 way things were worded. And in talking with
8 management and reviewing it and wondering what could
9 be done, he was fired.

10 To my understanding, others at American
11 Kickboxing were fired as well for not signing the
12 agreement.

13 And Dana White then went on to post a video
14 talking bad about all the fighters at American
15 Kickboxing Academy. And then after doing so, wanting
16 everyone to keep their job, Jon called Lorenzo. And
17 basically he had stated that he did not want to lose
18 his job, that he wanted to fight, and that he would
19 sign the agreement. But he just wasn't happy with
20 the way it was worded and was upset by the way Dana
21 had handled the situation.

22 So they ended up signing the likeness
23 agreement and getting their jobs back. But at that
24 point, the damage was done to pretty much every
25 fighter in the UFC. They had seen one of the largest

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1 teams in the world get taken out by a bully in Dana
2 White, who was acting in anger and really just upset
3 by the fact that someone would even question what was
4 put in front of them to sign.

5 And that carried weight through the MMA
6 community. Everyone knew they had to sign that, or
7 they could risk being fired on the spot.

8 Q. Is there any other example that you can
9 think of?

10 A. Of a threat and punishment?

11 Q. Yes.

12 A. Personally, as I had mentioned before, I was
13 threatened by Joe Silva that if I didn't take the
14 fight with Glover Teixeira, I would not like the
15 second fight. I went on to fight Glover against my
16 wishes and lost that fight.

17 The very next fight, I believe I received
18 the same punishment that I had in getting Glover
19 Teixeira. In that I was fighting an unknown name.
20 It was his first fight in the UFC. He had a
21 tremendous background at the local and regional
22 level. 11 and 0. No opponent had made it out of the
23 first round with him.

24 And I had to fly all the way over to England
25 for that fight. It was on an undercard. So very

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1 little, if any, in sponsorship dollars. And then, of
2 course, I ended up getting a second fractured orbital
3 and fractured eyebrow in that fight.

4 Another example would be when Andrei
5 Arlovski wanted to test what was available to him in
6 other fight organizations by waiting for his contract
7 to expire before re-signing.

8 And because he had made it known that he
9 wanted to not re-sign with a fight left on his
10 contract, they benched him for a year, the longest
11 amount of time that they could under contract.

12 And when he fought again, they put him on
13 the undercard against a handpicked opponent that was
14 a tremendous wrestler in hopes that he would lose and
15 they could destroy his notoriety if he was to leave
16 the UFC.

17 Q. With the Andrei Arlovski incident, were you
18 involved in anything related to that?

19 A. I was not directly involved with Andrei
20 Arlovski. But as stated earlier, with what happened
21 at American Kickboxing Academy and all the other
22 fighters knowing, basically this was just one more
23 example of Dana flexing his power and letting people
24 know that If you don't do what I say, we're going to
25 make it very hard for you, and we're going to hurt

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1 your career in every way we possibly can.

2 And it was to show a lot of fighters that if
3 we offer you that contract with one fight left on
4 your deal, you better re-sign, or you could be sat
5 for a while and stuck on an undercard against an
6 unfair brutal opponent.

7 Q. So when you say you were not directly
8 involved, how did you find out about it?

9 A. It was pretty well known in the AMA
10 community. There were some complaints online from
11 Andrei and statements made publicly. So people
12 understood what was going on behind the scenes.
13 There are plenty of other examples.

14 Q. Can you name the examples you can recall?

15 A. Not off the top of my head. I can think of
16 Randy Couture wanting to fight Fedor Emelianenko.

17 Q. Were you involved in anything related to
18 that dispute?

19 A. I was in the UFC. So I was involved in
20 being a fighter underneath Zuffa's control and seeing
21 a legend like Randy Couture have absolutely no power
22 in negotiating. He had no ability to bring Fedor in
23 because Fedor didn't like the terms that the UFC
24 wanted to sign him to. They would no co-promote with
25 him. Something that is done in boxing and other

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1 combat sports.

2 And when Randy didn't like that, he went to
3 court with them. And when he was tied up in court,
4 he couldn't fight at that time. So they shaved two
5 critical years off of his fight career, at the
6 tail-end of his career -- I believe between 46 years
7 of age and 48 years of age -- before he eventually
8 conceded and went back to fight for the UFC, knowing
9 it would effectively be the end of his career if he
10 tried to keep fighting it in court.

11 Q. But you had no personal knowledge of that
12 incident. You just heard about it because it was
13 well known, and you saw comments on the internet; is
14 that correct?

15 MR. DELL'ANGELO: Objection to form.

16 THE WITNESS: I was watching videos of Randy
17 Couture himself talking about what was going on. So
18 it wasn't just some dude's blog saying, Hey, Randy's
19 in a tough spot. This was Randy giving us statements
20 on exactly what was happening and things that he
21 wanted to change that he had absolutely no power to
22 do so.

23 BY MR. WIDNELL:

24 Q. What other examples?

25 MR. DELL'ANGELO: Is the pending question

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1 the question.

2 THE WITNESS: Then I would say the
3 attorney/client privilege applies, yes.

4 BY MR. WIDNELL:

5 Q. I think just recently you said that you
6 believe there are additional examples. Is that
7 correct?

8 A. That is correct.

9 Q. But you don't recall them now; is that
10 correct?

11 A. That is correct.

12 Q. But you might recall them in the future; is
13 that correct?

14 A. That is correct.

15 Q. Okay. Are there any other examples of Zuffa
16 threatening or punishing fighters that you are aware
17 of?

18 MR. DELL'ANGELO: Object to the form.

19 THE WITNESS: As I stated earlier, I'm aware
20 of other examples of the way the UFC threatened to
21 punish fighters, but I don't recall any at this time.

22 MR. WIDNELL: All right. I think I'm
23 finished with my initial questions. Do you have any
24 questions you want to conduct?

25 MR. DELL'ANGELO: Let's go off the record

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1 real quick.

2 THE VIDEOGRAPHER: We are now going off the
3 record. The time is approximately 4:35 p.m.

4 (A brief recess was taken.)

5 THE VIDEOGRAPHER: We are now back on the
6 record. The time is approximately 4:30 p.m.

7 MR. DELL'ANGELO: Plaintiffs have no
8 questions at this time. We'll read and sign.

9 THE VIDEOGRAPHER: We're done?

10 MR. WIDNELL: We're done.

11 THE VIDEOGRAPHER: This concludes the video
12 deposition of Kyle Kingsbury. We are going off the
13 record. The time is approximately 4:40 p.m.

14 (Thereupon the taking of the
15 deposition was concluded at
16 4:40 p.m.)

17 * * * * *

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1 CERTIFICATE OF DEPONENT

2 PAGE LINE CHANGE REASON

15 * * * * *

17 I, KYLE KINGSBURY, deponent herein, do
18 hereby certify and declare the within and foregoing
19 transcription to be my deposition in said action;
20 that I have read, corrected and do hereby affix my
21 signature to said deposition.

22 _____
23 KYLE KINGSBURY, Deponent

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1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA)

) SS:

3 COUNTY OF CLARK)

4 I, Jane V. Efaw, CCR No. 601, do hereby certify:

5 That I reported the taking of the deposition of
6 the witness, KYLE KINGSBURY, at the time and place
7 aforesaid;

8 That prior to being examined, the witness was by
9 me duly sworn to testify to the truth, the whole
10 truth, and nothing but the truth;

11 That I thereafter transcribed my shorthand notes
12 into typewriting and that the typewritten transcript
13 of said deposition is a complete, true and accurate
14 transcription of said shorthand notes taken down at
15 said time, and that a request has been made to review
16 the transcript.

17 I further certify that I am not a relative or
18 employee of counsel of any party involved in said
19 action, nor a relative or employee of the parties
20 involved in said action, nor a person financially
21 interested in the action.

22 Dated at Las Vegas, Nevada, this ____ day of
23 _____, 2017.

24 _____
25 Jane V. Efaw, CCR #601